

CALIFORNIA COASTAL COMMISSION

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-173

Applicant: City of San Diego, Engineering
and Capital Projects

Agent: Steve Frick

Description: Installation of drainage facilities, an unpaved pedestrian trail, an eastbound bike lane, on-street parking areas and curb improvements, along with the undergrounding of utilities and miscellaneous road repairs, on 1.2 miles of Carmel Valley Road.

Site: South side of Carmel Valley Road between Via Mar Valle and Sorrento Valley Road, North City (Torrey Pines Community), San Diego, San Diego County. APN Nos. 301-150-03 and 301-130-01

Substantive File Documents: Certified City of San Diego LCP; Torrey Pines Community Plan; Carmel Valley Road Enhancement Plan and associated EIR

STAFF NOTES:

Due to Permit Streamlining Act deadlines, the Commission must take action on this project at its July, 2003 hearing.

Summary of Staff's Preliminary Recommendation: Staff is recommending approval with special conditions. As proposed, the project will result in impacts to 0.09 acres (3,908.4 sq.ft.) of wetlands. After review of the project, staff has determined that there are feasible alternatives available that would eliminate all wetlands fill. Therefore, staff is recommending the project be revised to eliminate all wetland impacts. The proposed special conditions would eliminate seven proposed parking spaces, thus eliminating all wetland impacts adjacent to the parking pockets. The conditions would also require the City to avoid all wetland impacts in the area between Via Grimaldi and Portofino and at the Portofino/Carmel Valley Road intersection. This could be accomplished by a number of identified alternatives which could include removal of some parking spaces, reduction of road width, reduction or elimination of bike lanes and/or pedestrian amenities, acquisition of additional right-of-way, or other possible means. Other special conditions

address the proposed mitigation and monitoring programs, construction scheduling, locations of staging areas and access corridors, and permits from other regulatory agencies.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-02-173 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Revised Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a complete set of final revised plans for all improvements, that are in substantial conformance with the plans titled *Carmel Valley Road Improvements*, dated May 5, 2003 and received in the San Diego Coastal Commission office on May 19, 2003, except that they shall be revised as follows:

- a. All wetland impacts associated with the project, both permanent and temporary, including those shown on the plans dated May 5, 2003 shall be eliminated. Said elimination shall occur through modifications to the project that may include elimination of proposed on-street parking, reduction in road width, realignment of the roadway, relocation of the northern right-of-way (ROW) boundary (i.e., acquisition of additional ROW), reduction or elimination of specific project components such as sidewalks.

The permittee shall undertake development in accordance with the approved final, revised plans. Any proposed changes to the approved final, revised plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Upland Impacts/Mitigation and Monitoring Program PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final detailed mitigation and monitoring plan for all impacts to vegetation located south of the pre-project paved alignment of Carmel Valley Road. Said plan shall be developed in consultation with the U.S. Fish and Wildlife Service (Service), California Department of Fish and Game (CDFG), and California Department of Parks and Recreation (Parks). Said plan shall include the features of the *Draft Mitigation Monitoring and Reporting Program Alternative B*, attached to the final EIR, addressing upland impacts, and shall be augmented with the following:

- a. Preparation of detailed site plans identifying all impacted areas of Diegan coastal sage scrub and non-native grasslands, clearly delineating all areas and types of impact (both permanent and temporary) and the exact acreage of each impact. In addition, a detailed site plan of any mitigation site in the coastal zone shall also be included.
- b. As proposed, impacts to coastal sage scrub and non-native grasslands shall be mitigated at not less than a ratio of 1:1.
- c. Mitigation shall be contiguous with, or nearby, existing similar habitat within the project site.
- d. Identification of the location where the seeds will be collected and identification of plant species to be used for the restoration area(s);
- e. Application rate (e.g. pounds per acres of seeding effort);
- f. Methods for weed eradication. No weed whips shall be permitted after installation of the seed mixes;

- g. At completion of the restoration effort, the restoration specialist shall prepare and submit to the Executive Director a letter report indicating the installation is finished and that the five-year monitoring period has begun. Monitoring reports will be submitted to the City, wildlife agencies, and Coastal Commission annually for five years.

The permittee shall undertake mitigation and monitoring in accordance with the approved final, revised upland mitigation plan. Any proposed changes to the approved final, revised plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Timing of Construction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final construction schedule, which shall be incorporated into construction bid documents. The schedule shall specify that:

- a. Construction activities shall not occur between Memorial Day weekend and Labor Day of any year;
- b. Construction activities shall not occur on weekends, year round;
- c. The construction schedule shall implement all breeding season restrictions required by other regulatory permits; and
- d. Construction activities shall only occur during daylight hours.

The permittee shall undertake development in accordance with the approved construction schedule. Any proposed changes to the approved construction schedule shall be reported to the Executive Director. No changes to the schedule shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Staging Areas/Access Corridors. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, detailed plans incorporated into the construction bid documents for the location of access corridors to the construction sites and staging areas. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of traffic flow on Carmel Valley Road and shall not be located within any sensitive habitat areas (i.e. wetlands or uplands). If more than one staging site is utilized, the plans shall indicate which sites are connected with which portions of the overall development, and each individual site shall be removed and/or restored immediately following completion of its portion of the overall development.

The permittee shall undertake development in accordance with the approved access corridors and staging plans. Any proposed changes to the approved access/staging plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Construction Impacts/Restoration. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a detailed revegetation plan indicating the type, size, extent and location of all plant materials, any proposed irrigation system and other landscape features to revegetate any temporary upland impacts to vegetation located south of the pre-project paved alignment of Carmel Valley Road. The program shall be developed in consultation with the U.S. Fish and Wildlife Service (Service), California Department of Fish and Game (CDFG), and California Department of Parks and Recreation (Parks), and at a minimum shall include:

- a. Staking of Sensitive Areas. Construction impacts to coastal sage and other sensitive upland plant communities, as well as wetlands, including salt marsh, brackish marsh, riparian scrub and freshwater seep, shall be avoided by identifying and staking all sensitive habitats outside the project footprint, and educating the construction crews about the importance of these habitats and need for protection.
- b. Before/After Survey. The condition of the existing vegetation outside the project footprint shall be documented prior to implementation of the project. The extent of impacts to the vegetation shall be assessed and documented after completion of the project. If the post construction survey identifies that impacts have occurred outside the project footprint established pursuant to the revised plans required in Special Condition #1, a permit amendment is required to address the identified impacts.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. Other Permits. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director copies of all other required state or federal discretionary permits for the development authorized by CDP #6-02-173. The applicant shall inform the Executive Director of any changes to the project required by other state or federal agencies. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The City of San Diego is proposing a number of public access and water quality improvements along a 1.2 mile stretch of Carmel Valley Road. These will begin at the City of San Diego/City of Del Mar border (approximately at the intersection of Via Mar Valle and Carmel Valley Road) and run eastward to Sorrento Valley Road. The improvements occur along both sides of the road, and include modifications to the existing storm drain system to add subsurface stormceptors and oil/water separators, to reinforce/rebuild some existing outfalls, to add two new outfalls, and install continuous curb and gutter on both sides of the road. Access improvements include Class II bike lanes on both sides of the road, formalized public parking areas, continuous sidewalk on the north side, and a four-foot wide unpaved, graded shoulder to serve as a pedestrian trail on the south side. The site is located adjacent to Torrey Pines State Park and the Los Penasquitos Lagoon. In addition, existing utility lines will be undergrounded. The proposed improvements south of Carmel Valley Road will result in impacts to 0.09 acres of wetlands and 0.78 acres of uplands.

The proposed project lies within both the City's coastal development permit (CDP) jurisdiction area and the Coastal Commission's retained original jurisdiction area. Thus, the Commission is only reviewing a portion of the proposed development. The Commission's original jurisdiction covers everything south of the existing paved alignment of Carmel Valley Road. All remaining portions of the proposal will be addressed in a City-issued CDP, that is currently in process and that will be appealable to the Commission. The specific project components within the Commission's jurisdiction include curb, gutter, parking spaces/areas, the eastbound bike lane and pedestrian trail improvements, as well as all activities occurring within the portions of the storm drain system located south of the existing road. This includes the stormceptors, some piping, inlets, curbs, and all work at the outfalls. In addition, all proposed impacts and all proposed mitigation would occur within the Commission's jurisdiction. The standard of review for this permit application is Chapter 3 of the Coastal Act.

2. Biological Resources/Wetlands. The following Chapter 3 policies are most applicable to the proposed development, and state in part:

Section 30231.

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233.

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities. ...

Section 30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

In addition, the certified Torrey Pines Community Plan includes a number of policies protecting wetlands, and, along with the certified Implementation Plan, is the standard of review for the portions of the project within the City's permit jurisdiction. Grounds for appeal of a City permit decision would also be consistency with the certified LCP provisions. Although not the legal standard of review for the Coastal Commission's permit, the certified LUP is used as guidance, and states:

Policy #10, on Page 29 – “Construction or improvements of roadways adjacent to biologically sensitive areas or open space shall be designed to avoid impacts, especially in wetlands and wetland buffer areas. Protection of sensitive habitats through buffers, realignments and reduced development areas shall also be considered.”

Policy I#3, on Page 36 – “Any improvements to roadways adjacent to or bordering the lagoon (Carmel Valley Road, Sorrento Valley Road, North Torrey Pines Road) shall not encroach within the wetland area of the lagoon, unless specifically authorized herein.”

Last paragraph on Page 54, under Carmel Valley Road – “A variety of improvements to Carmel Valley Road are anticipated in the future, and may include widening, intersection improvements, a parking lane, and a bicycle/pedestrian pathway. At the time specific design proposals are determined and environmental impacts assessed, coastal development permits will be required to implement the project. A preliminary plan for the improvements is described below; however, in no case shall any improvement result in wetland fill.”

First paragraph under Bicycle/Pedestrian Pathway, on Page 55 – “A bicycle/pedestrian pathway should be provided in the existing disturbed, upland area along the south side of Carmel Valley Road. A variety of design options should be considered; however, in no case shall the bicycle/pedestrian pathway involve wetland fill.”

The proposed development will result in both temporary and permanent impacts to wetland and upland vegetation. The total proposed wetland impact is to 0.09 acres of two different wetland communities, including coastal brackish marsh and freshwater seep, both located adjacent to the south of existing Carmel Valley Road. The impact occurs in seven different linear patches, ranging from 3.8 sq.ft. to 1,688.3 sq.ft. in area. These proposed impacts are permanent and are caused by widening the road towards the lagoon to accommodate Class II bicycle lanes on both the north and south sides of Carmel Valley Road, and to install public parking facilities and a pedestrian trail on the south side of the road.

Impacts to upland species, including coastal sage scrub and non-native grasslands, will result from some of the proposed drainage improvements, including installation of curbs and inlets, piping, stormceptors, and the maintenance and installation of outfalls. According to the EIR, the total upland disturbance is 0.68 acres. Of this, 0.22 acres of coastal sage scrub are impacted, along with 0.46 acres of non-native grasslands.

The purpose of this proposal is two-fold: first, to repair, maintain and improve the existing drainage facilities in the area, and second, to provide public access improvements to encourage non-automotive forms of transportation to nearby public recreational facilities and for commuter purposes. The adjacent portions of Los Penasquitos Lagoon within the proposed project footprint consist of both natural and disturbed wetlands and uplands, including coastal salt marsh, brackish marsh, freshwater seep, riparian scrub, coastal sage scrub, non-native grasslands and several disturbed areas. The lagoon is used by numerous wildlife species, including several endangered or threatened avian ones, such as the California gnatcatcher, beldings savannah sparrow, light-footed clapper rail and California brown pelican. However, none of these has been found occupying the proposed project area. Some sensitive plants have been noted in the project area, occurring primarily within patches of coastal sage scrub (Lewis' evening primrose) and salt marsh vegetation (beach phacelia).

Quantifying the exact impacts of the proposed project has been hampered by continuing refinements to the project design, which have eliminated some of the original project features causing impacts (retaining walls and turn pockets, for example, which were included in some of the alternatives reviewed in the EIR). Based on the most recent plans, the wetland impacts total 0.09 acres (3,908.4 sq.ft.) scattered between seven disjunct linear patches adjacent to, or within, the proposed project corridor. The four western patches are located near the ends of Via Aprilia, Via Borgia and Via Cortina, and are the direct result of the proposed parking pockets. These impacts total 1,521 sq.ft. in area. The three larger patches are in the general vicinity of Portofino Drive and total 2,387 sq.ft. in area. Parking improvements do not extend this far east, so these impacts directly result from the bicycle and shoulder improvements or, to consider it more broadly, the transportation elements as a whole.

As cited above, under the Coastal Act, disturbance and/or fill of wetlands is severely constrained. Coastal Act Section 30233(a) sets forth a three-part test for all projects involving the fill of coastal waters and wetlands. These are:

- 1) That the project is limited to one of the eight stated allowable uses;
- 2) That the project has no feasible less environmentally damaging alternative; and,
- 3) That adequate mitigation measures have been provided to minimize adverse environmental effects.

The specific proposed activities causing wetland impacts cannot be identified as fitting one or more of the eight allowed uses. They all involve the addition of new facilities that

are not required for the roadway to continue functioning as a roadway. Moreover, the impacting features cannot be considered the least environmentally damaging alternatives, as the EIR identifies other alternatives that have no impacts on wetlands. The EIR analyzed in depth a total of five alternatives: Alternative A, three variations of Alternative B, and Alternative C. These alternatives each include progressively more project components and progressively more resource impacts.

Alternative A consists only of improvements within and north of the existing paved roadway, and results in no impacts on any identified resources. It would provide continuous curb, gutter and sidewalk along the north side of the road between Via Donada and Portofino Drive, which is the only section on the north side of Carmel Valley Road where such improvements are not currently provided. It also includes an investigation into the feasibility of peak time shuttle service. However, it would be primarily a repair and maintenance alternative, and does little to further the project goals of improving water quality and enhancing non-automotive forms of public access.

Alternative B-1 includes all features of Alternative A and adds the following major components: continuous curb and gutter on the south side of the road, an unpaved hiking trail on the south side, Class II bike lanes on both sides except between Via Grimaldi and Portofino Drive, where a Class III lane would be provided, undergrounding of existing utility lines, and stormwater sediment basins. Alternative B-2 includes all features of Alternative B-1, except it would provide Class II bike lanes along the entire alignment. Alternative B-3 includes all the features of B-2 plus an eastbound left-turn lane at Portofino Drive.

Alternative C is the most ambitious. It includes all features described thus far, and adds: a continuous left-turn lane along the entire alignment, signals at two intersections now served by stop signs, a 5-foot paved pedestrian sidewalk adjacent to the hiking trail, a parking lane all the way east to Portofino Drive, underground oil/water separators, sediment tanks, and rubberized road pavement. Alternatives B-2, B-3 and C, as originally designed, all require retaining walls of varying lengths to support project components on the south side of Carmel Valley Road.

What has ultimately been proposed is a modified version of B-2, which has eliminated the need for any retaining walls, and has added the oil/water separators from Alternative C. Thus, visual impacts and possibly some resource impacts identified in the original B-2 have been reduced and drainage/water quality improvements have been increased. However, both Alternative A and Alternative B-1 have less wetland impacts than the proposed alternative. Alternative A has none, and the EIR identifies the B-1 impacts (0.009 acre of wetland and 0.05 acre of upland) as less than significant. The EIR identifies Alternative B-1 as the environmentally preferred alternative, since it achieves many more project goals than Alternative A, but results in very minor impacts to coastal resources.

Under the Coastal Act, there is no such thing as a “less than significant” wetland impact. In view of the tremendous wetland losses suffered throughout the past century, especially

to coastal wetlands in California, all wetland impacts are considered significant and are thus limited to the above-identified eight uses. The Commission finds, however, that modified B-2 (the proposed project) can be revised in a variety of ways to eliminate all wetland impacts, including through removal of some parking spaces, reduction of road width, reduction or elimination of bike lanes and/or pedestrian amenities, etc. Moreover, as a choice in alternatives, modified B-2 includes far more beneficial project features than either A or B-1. Again, Alternative A is the only alternative with no impacts at all, but consists of little more than simple road repairs.

Implementation of the proposed drainage improvements will significantly improve the quality of lagoon waters, and thus enhance biological resources in the lagoon. The existing drainage system is inadequate, both due to the age of the existing facilities and in that all existing inlets are on the north side of Carmel Valley Road. Since the road tilts slightly downhill towards the lagoon, all road runoff currently sheet flows into the lagoon unfiltered and untreated. Modified B-2 would provide curb and gutter on the south side of the road to capture and direct road runoff into the City's stormwater system. It also proposes installing stormceptor devices within the system upstream of each outfall. These devices separate out both oil and sediments, making the ultimate discharge less damaging to the lagoon ecosystem. The project will also redirect, expand and upgrade some existing piping, rebuild all existing outfalls to current standards, including dissipation devices, and add two new outfalls to the system. Although a further discussion of these features will be included in a separate finding on water quality, it is appropriate to discuss them here in light of their direct and substantial benefit to biological resources.

As proposed, however, these drainage facilities will have permanent and temporary (construction) impacts on coastal sage scrub and non-native grasslands. These vegetation communities generally provide habitat for endangered species and foraging area for raptors. The project biological report, however, indicates that although these communities are present within the project footprint, they have undergone some disturbance due to their proximity to Carmel Valley Road and due to human and domestic animal intrusion from nearby homes and businesses. For these reasons, these off road areas containing some native vegetation do not function as habitat for sensitive and listed species, and are thus not appropriately identified as Environmentally Sensitive Habitat Areas (ESHA). They do, however, connect to more intact habitat systems that do qualify as ESHA and support listed species. The Commission's staff ecologist concurs with this characterization of the nature and value of existing resources.

The proposed drainage improvements will directly impact 0.68 acres of these vegetation types, including 0.22 acres of coastal sage scrub and 0.46 acres of non-native grasses. Because these areas are not identified as ESHA, the minor impacts associated with these needed water quality improvements are not inconsistent with Section 30240 of the Coastal Act, which rigorously protects viable ESHA from all forms of disturbance that would degrade the habitat function. The applicant is proposing on-site mitigation for these impacts at ratios of 2:1 for coastal sage scrub and 1:1 for non-native grasslands. In addition, the Los Penasquitos Lagoon is identified as core preserve area within the City's

Multiple Species Conservation Program (MSCP). Although the MSCP as a whole is not included in the City's certified LCP, its mitigation ratios are found within the Environmentally Sensitive Lands (ESL) regulations of the certified Implementation Program. The proposed mitigation ratios are consistent with those requirements, with past Commission precedent, and with the cited Coastal Act policies.

To address all identified concerns, the Commission finds it necessary to attach a number of special conditions. All six special conditions address the protection of biological resources, although some also address other issues. Special Condition #1 requires that the project be redesigned to completely eliminate all wetland impacts. Although a number of ways to achieve this are suggested, the City can ultimately decide what revisions to make to eliminate all wetland impacts. As one example, the City has identified that four of the seven areas of proposed wetland impact could be avoided by the simple elimination of seven proposed parking spaces. As important as public parking is to the Commission, it is not an allowed use in wetlands. Moreover, eliminating seven proposed parking spaces will not significantly reduce the public parking reservoir in this area.

Special Condition #2 addresses the proposed mitigation and monitoring program for upland impacts. The on-site mitigation activities require a CDP from the Commission, and have the potential to impact adjacent ESHA if not done according to an approved plan. A draft plan is included with the EIR for the project, as proposed. This includes mitigation for wetland impacts, which are not allowed pursuant to Special Condition #1. Therefore, the second condition requires submittal of a final, revised mitigation and monitoring plan consistent with the approved permit. Special Condition #3 limits the time of construction to protect the breeding seasons of sensitive nearby birds from noise and dust impacts. Special Condition #4 stipulates where staging areas and construction corridors may be located, and Special Condition #5 provides for the staking of sensitive native vegetation areas outside the project footprint and before and after vegetation surveys. Finally, Special Condition #6 requires copies of all permits issued by other permitting agencies, and advises that project changes required by any of those agencies may result in the need to process an amendment to this permit.

In summary, the project is proposed to enhance both biological resources and public access opportunities. Access improvements that offer non-automotive transportation opportunities can benefit both air and water quality as well, although, with the current southern California lifestyle, reducing dependence on the automobile will not be achieved easily. The proposed drainage improvements will directly benefit biological resources supporting sensitive lagoon species, but will also improve public recreation opportunities through providing cleaner water. However, the proposed improvements will result in direct impacts to wetlands, which is inconsistent with Section 30233 of the Coastal Act as well as with policies in the certified LUP. Special conditions eliminate all wetland impacts, and the applicant is proposing mitigation at appropriate ratios and in suitable locations for upland impacts. Other special conditions adequately address other aspects of resource protection. Therefore, as conditioned, the Commission finds the proposed

development consistent with the cited resource protection policies of the Coastal Act, and also with the certified LUP.

3. Public Access and Recreation/Public Parking The following policies are most applicable to the subject permit request, and state in part:

Section 30210.

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. ...

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Section 30213.

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...

Section 30214.

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses. ...

Section 30221.

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30223.

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252.

The location and amount of new development should maintain and enhance public access to the coast by ... (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, ...

Section 30253

New development shall ... (4) Minimize energy consumption and vehicle miles traveled.

The proposed road improvements will have both positive and negative impacts on public access. On the positive side, bicycle access would be significantly improved through the provision of Class II bicycle lanes. Pedestrian access will be improved through the provision of a continuous sidewalk on the north side of Carmel Valley Road, and a graded, unpaved, 4' shoulder on the south side that can be used as a pedestrian trail. The negative side is the loss of 94 existing, informal public parking spaces; that number will very likely increase to 101 with implementation of Special Condition #1, discussed in the previous finding.

Carmel Valley Road is frequently used by bicyclists, both for recreational and commuter purposes. Currently, although this is a heavily used two-lane road, bicycle traffic shares the travel lanes with vehicles. Eastbound bicyclists must also be on the alert for parked cars and pedestrians just south of the road, where informal parking serving the beach and local businesses exists. Some vehicles angle-park in this area, which forces them to back out onto Carmel Valley Road itself. Pedestrians walk along the edge of the road and weave in and out around the parked vehicles, such that they can appear suddenly from

between parked cars. The applicant cites this as an unsafe situation for all parties, but especially for the bicyclists.

To address this situation, the City proposes to construct Class II bike lanes on both sides of the road, extend curb and sidewalk the entire extent on the northern side (current sidewalk is discontinuous), grade an unpaved shoulder on the south side, and install curbs. This will result in a total width of 43 feet to serve all three forms of travel; with the proposed formal 8-foot deep parking lanes on both sides of the road, the total width will be 59 feet. The boundary between City of San Diego and Coastal Commission permit jurisdiction is the southern edge of the existing paved road. Thus, all project features south of that line are the subject of this permit. Those features directly related to travel/traffic include a portion of paved road, a 5-foot paved bike lane, the 4-foot graded shoulder, parallel parking pockets and curb. Those features will all serve eastbound vehicular traffic.

The proposed plan is expected to only improve levels of service during the short term. As the population increases, and more and more residential development occurs to the east, out of the coastal zone, Carmel Valley Road is becoming more impacted and levels of service (LOS) are being reduced. Currently, all roadway segments along Carmel Valley Road between the Del Mar city limits and Portofino Drive operate at LOS D, or worse, although all identified intersections operate at LOS C or better. However, by 2015, when full buildout is expected, and if no project is built, all road segments and all but one intersection will be operating at LOS F during afternoon peaks. This is also the case with implementation of the proposed plan. Thus, in the future the proposed project will have no noticeable effect on levels of service along Carmel Valley Road.

Current conditions for bicyclists qualify as a Class III bike path, where cars and bikes share the same lanes, and the road is identified as a bicycle route. Class II bike lanes provide a separate striped travel lane for bicycles, but are not structurally separated from the main road, as is the case with Class I lanes. The main road is currently composed of two, 12-foot travel lanes. As proposed, two 12-foot travel lanes will continue to be provided, along with a ten-foot combined width of bicycle lanes. This should facilitate smoother and safer traffic flow along this major coastal access corridor. Also, since both bicycle lanes will handle only one-way traffic, it may be possible for the lanes to be reduced in width to address wetland concerns raised in the previous finding. The proposed lanes will connect to existing bicycle lanes west of the project and may provide a connection point for future bicycle improvements to the east. As currently proposed, the bike lanes taper off slightly east of Portofino Drive, and do not extend all the way to Sorrento Valley Road.

Pedestrians will also see some safety and recreational improvements with implementation of project plans. Paved or unpaved lanes for walking will be provided along both sides of the street. Although the number of pedestrian users may not significantly increase, there will be a formal, delineated path available to them. Moreover, formalization of public parking will eliminate the major hazard to pedestrians in this location.

As for parking, the current unimproved areas south of Carmel Valley Road are heavily used for parking, especially during the beach season. Carmel Valley Road is the only access to the north parking lot at Torrey Pines State Beach. However, since a fee is charged to park in the state lot, many people park outside the facility and walk through the parking lot to the beach. This informal parking occurs both east and northwest of the state park entrance. Where the dirt area is narrow, cars park parallel; where there is more room, they park at angles or even side by side (double park). There are also improved parking lanes on the north side of Carmel Valley Road, although there is no parking currently allowed between Portofino Drive and Sorrento Valley Road. The City's estimate of existing parking accommodation is 272 spaces, understanding that most of these are not formally delineated, even on the north side of the road.

As proposed, no street parking will be allowed east of Via Donada, which will eliminate approximately 97 existing spaces on both sides of the road. However, this area is furthest from the beach, and also a significant walk from local businesses, so it is likely used more by local residents than beach visitors. Moreover, this is the area where the wetland boundary runs closest to Carmel Valley Road; allowing both road improvements and parking in this area would result in significant wetland impacts. West of Via Donada, parking will be continuous on the north side of the road. On the south side, there are proposed a series of parking pockets, 8 feet in depth, to accommodate parallel parking along most of the road. The pockets will not extend across the street ends, so that public views to the lagoon are not degraded by parked cars. This will result in fewer parking spaces than at present along this stretch of the road, since there will no longer be an opportunity for angle or double parking.

The City conducted a total of four parking counts over the Saturday and Sunday of a recent July weekend (not a holiday weekend) to determine how many vehicles actually utilized these spaces. The study concluded an average parking need of 135 spaces; even with the proposed reductions, parking for at least 171 vehicles will remain. Thus, it appears there will be adequate parking available to serve the demonstrated recreational needs of the public on all but a few summer days (holidays and holiday weekends), when even the current 272 spaces are inadequate. It must also be noted that, again except those summer holiday times, there is a surplus of parking spaces available in the state beach parking lot accommodating over 500 vehicles, which is half-empty on average. Thus, the Commission finds there will not be a shortage of parking availability; however, there will be less free public parking in this area as a result of the project. The Commission has weighed the improved public safety features, the provision of bicycle and pedestrian lanes as alternative modes of transportation, and the historic and continuing availability of parking spaces at the State Park parking lot. The Commission concludes that this significant reduction in the number of parking spaces is thus consistent with Section 30252, and with the broader public access and recreation policy language of Section 30210.

Special conditions #1, 3 and 4 address parking and access issues. If the City chooses to eliminate the seven identified parking spaces in response to Special Condition #1, the proposed parking reservoir will be slightly reduced. However, this possibility was

figured into the above analysis, and parking will remain adequate for normal use days. Special Condition #3 restricts construction activities during the summer beach season, to reduce construction impacts on beach traffic; it also prohibits construction on weekends year-round and requires maintenance of one through lane of traffic at all times. Special Condition #4 provides that staging areas and access corridors cannot displace existing public parking spaces.

The proposed project is located between, and partially within, the first public roadway, which is Carmel Valley Road in this location. It provides access to areas of coastal recreation, both passive (lagoon) and active (beach). Although public access may be temporarily reduced due to construction impacts, the finished project will have a positive effect on public recreational opportunities overall. As conditioned, the Commission finds the proposal consistent with all cited Chapter 3 policies of the Coastal Act, and with all other public access and recreation policies as well.

4. Water Quality/Drainage Improvements. The following Coastal Act policies addressing water quality are most applicable to the subject proposal, and state, in part:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored...Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters....

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum population of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment

Over the past many years, there have been on-going concerns about the water quality of Los Penasquitos Lagoon. The lagoon is the “end of the line” for a large watershed comprised of rapidly growing communities (most out of the coastal zone). Moreover, there are a significant number of ongoing construction activities throughout the watershed. The lagoon receives vast quantities of stormwater (some of it polluted) through the existing storm drain system that includes numerous outlets around the lagoon, including several within the general project area. The lagoon outfalls along Carmel Valley Road are undersized for today’s standards, have no filtration mechanisms and include no dissipation devices. As mentioned earlier, all existing inlets are on the north side of Carmel Valley Road. Since the road tilts slightly downhill towards the lagoon, all road runoff currently sheet flows into the lagoon unfiltered and untreated. The proposed drainage improvements will provide curb and gutter on the south side of the road to capture and direct road runoff into the City’s stormwater system. It also proposes installing stormceptor devices within the system upstream of each outfall. These devices

separate out both oil and sediments, making the ultimate discharge less damaging to the lagoon ecosystem.

Because of these new features, the existing pipe diameters in some locations are being increased. This is to allow room for the additional road runoff not previously carried in the stormdrain system and to provide adequate space to install the stormceptors. The project will also redirect, expand and upgrade some existing piping, rebuild all existing outfalls to current standards, including dissipation devices, and add two new outfalls to the system. The project has been designed to maintain the established drainage patterns for the area as a whole, and use the existing storm drain system. At the same time, these installations will allow additional runoff to be captured and filtered, and will thus more than offset the detrimental effects of increased impervious surfaces. Although, any new development which results in the conversion of currently pervious surfaces to impervious ones, accelerates runoff to some degree, the degree of change in the proposed project is negligible. The new impervious surfaces will consist of narrow linear strips along the edge of the existing road in areas currently subject to untreated sheetflow of road runoff into the lagoon. The project has been reviewed by the Commission's Water Quality Unit, and it has been determined that the project has net beneficial impacts on water quality. All revegetation will consist of drought-tolerant native species, which will reduce, or eliminate, the need for irrigation; only temporary irrigation for plant establishment is proposed in the draft mitigation programs. The Commission therefore finds, as proposed, and as conditioned to address other issues, that the development will be consistent with the cited Coastal Act policies.

5. Visual Resources. The following policy of the Coastal Act provides for the protection of scenic coastal resources, and states, in part:

Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Carmel Valley Road runs along the north shore of Los Penasquitos Lagoon between I-5 and the state beaches. Thus, it is both a scenic corridor and a major coastal access route. It is the applicant's intent to restore any impacted native vegetation, remove exotic vegetation, underground utilities, and consolidate all necessary directional and/or interpretive signage. Moreover, removing the ability for cars to park along the south side of the road at all intersecting side streets will open up view corridors down those streets, both for local residents and the public as a whole. The spaces between the parking pockets will be landscaped with low-growing native vegetation, to enhance, rather than hide, these views.

The proposed improvements are all at, or below, existing grade, so the visual impact of project components will be minimal. Retaining walls proposed in earlier iterations of the project alternatives are no longer required due to project refinements, eliminating completely what had been considered the greatest potential visual impact. With the inclusion of seasonal construction constraints, unsightly construction equipment and materials will not degrade visual resources during the summer beach season. The Commission finds the proposal, as conditioned to address other concerns, fully consistent with Section 30251 of the Act.

6. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The certified Torrey Pines LUP, old North City LUP, and approved Los Penasquitos Enhancement Plan all call for future improvements to Carmel Valley Road. Moreover, these documents do not advocate making traffic or parking improvements at the expense of wetlands. A number of policies from the Torrey Pines LUP, the most recently certified document, were cited earlier in this report, and specifically prohibit any wetland fill for improvements to Carmel Valley Road; as conditioned, the proposal is consistent with these stipulations. For the Commission, however, the legal standard of review is the Coastal Act, and the previous findings have determined that the proposal, as conditioned, is consistent with the cited Chapter 3 policies. The Commission finds that, as conditioned, its approval of this project will not prejudice the ability of the City to implement its certified LCP in this regard.

7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing final, revised plans, mitigation and monitoring programs, construction impacts, and the like will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.